

### §316.3

### 13 CFR Ch. III (1–1–00 Edition)

(1) The project is primarily for the use and benefit of the community as a whole without significantly expanding the output of commercial products or services;

(2) The project is primarily to be used for non-production or non-distribution purposes;

(3) The project will replace or restore capacity recently destroyed by flood, fire, wind, or other natural disaster, without contributing to significant expansion of the previously existing supply of the same kinds of commercial products or services;

(4) The project will assure the retention of physical capacity and/or employment without significantly expanding the existing supply of the same kinds of commercial products or services;

(5) The project will assure the reopening of facilities closed within two years of the date of reopening, if the facility will provide the same kinds of products or services as previously provided, without a significant increase in output;

(6) The project will replace, rebuild or modernize, within the same commuting area, facilities which within the previous two years have been, or are to be, displaced by official governmental action, without a change in the kind or significant increase in output of the commercial product or service previously provided;

(7) The project assures completion of a project previously assisted by EDA, where further funding is required because of revised project cost estimates, rather than for additional productive capacity;

(8) The project is wholly or primarily for planning, technical assistance, research, evaluation, other studies, or for the training of workers, and not for the direct benefit of a firm or an industry that produces a commercial product or service; or

(9) No firm benefitted by the project will use 50 percent or more of any EDA-financed service or facility.

[64 FR 5482, Feb. 3, 1999, as amended at 64 FR 69879, Dec. 14, 1999]

### §316.3 Nonrelocation.

(a) General requirements for non-relocation for funding under PWEDA are as follows:

(1) EDA financial assistance will not be used to assist employers who transfer jobs from one commuting area to another. A commuting area ("area") is that area defined by the distance people travel to work in the locality of the project receiving EDA financial assistance;

(2) Every applicant for EDA financial assistance has an affirmative duty to inform EDA of any employer who will benefit from such assistance who will transfer jobs (not persons) in connection with the EDA grant;

(3) EDA will determine compliance with this requirement prior to grant award based upon information provided by the applicant during the project selection process; and

(4) Each applicant and identified primary beneficiary of EDA assistance, which for purposes of this section means an entity providing economic justification for the project, must submit its certification of compliance with this section, and other applicable information as determined by EDA.

(b) The nonrelocation requirements stated in paragraph (a) of this section shall not apply to businesses which:

(1) Relocated to the area prior to the date of the applicant's request for EDA assistance;

(2) Have moved or will move into the area primarily for reasons which have no connection to the EDA assistance;

(3) Will expand employment in the area where the project is to be located substantially beyond employment in the area in which the business had originally been located;

(4) Are relocating from technologically obsolete facilities to be competitive;

(5) Are expanding into the new area by adding a branch, affiliate, or subsidiary while maintaining employment levels in the old area or areas; or

(6) Are determined by EDA to be exempt.

### §316.4 Procedures in Disaster Areas.

When non-statutory EDA administrative or procedural conditions for financial assistance awards cannot be met